

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHEILA HAYFORD, :
: Plaintiff, :
: v. : Civil Action No. 04-816-JJF
: TRAVELERS BANK AND TRUST, FSB, :
: Defendant. :
|

O R D E R

WHEREAS, the Court issued an Order requiring Plaintiff to show cause in writing within twenty (20) days of the Court's Order why this case should not be dismissed for failure to serve process within 120 days of filing the Complaint pursuant to Federal Rule of Civil Procedure 4(m);

WHEREAS, Plaintiff responded to the Court's Order with a letter (D.I. 5) stating that the Complaint was served on Defendant "per copy dated Jul[y] 02, 2004," that "Plaintiff has given them reasonable time to respond" and asking the Court to grant Plaintiff the relief sought in the Complaint and not dismiss this action;

WHEREAS, Plaintiff attached to her letter copies of the summons;

WHEREAS, the Court construes Plaintiff's letter as a request for default judgment under Federal Rule of Civil Procedure 55;

WHEREAS, the summons attached to the Complaint was issued by the Clerk's office to Plaintiff, but it is Plaintiff's burden to

demonstrate that the summons was served on Defendant, and copies of the summons are not adequate proof that service was effectuated under the Federal Rules of Civil Procedure;

NOW THEREFORE, IT IS HEREBY ORDERED this 18th day of October 2005, that:

1. Plaintiff's letter (D.I. 5) which the Court construes as a request for default judgment is **DENIED**.
2. Plaintiff shall have an additional **twenty days (20)** from the date of this Order to show cause why this action should not be dismissed for failure to effectuate service in accordance with Federal Rule of Civil Procedure 4 (m) .

Joseph J. Farnan Jr.
UNITED STATES DISTRICT JUDGE